

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

METAL BUILDING
COMPONENTS, L.P.,

Plaintiff,

vs.

CIV-04-0256 MV/DJS

JOE ALLEN CAPERTON,

Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Plaintiff's Motion for Default Judgment, filed July 8, 2006, [**Doc. No. 87**]. In its motion, Plaintiff seeks default judgment against Defendant on the grounds that Defendant, who is appearing *pro se*, has failed to comply with the deadlines contained in the Scheduling Order for this case and has been otherwise dilatory in his obligation to participate in and defend this matter. In the alternative, Plaintiff requests that Defendant be required to prove any illnesses or medical conditions he relies upon to miss any future deadlines or seek future continuances.

The record in this case supports Plaintiff's assertion that Defendant has not complied with many of the deadlines in this case and has not filed responses to Plaintiff's motions or any pretrial materials. Without the benefit of a response by Defendant, however, entry of default judgment is premature. Defendant is hereby cautioned that failure to comply with his obligations in this case, including attending trial in this matter, may result in a default judgment being entered against him as well as the imposition of monetary and other sanctions by the Court.

IT IS HEREBY ORDERED that Plaintiff's Motion for Default Judgment, filed

July 8, 2006, [**Doc. No. 87**], is taken under advisement.

IT IS FURTHER ORDERED that if Defendant does not appear for trial in this matter as scheduled on July 17, 2006, default judgment may be entered against him and monetary sanctions, including the costs of impaneling a jury, may be imposed against him. If an illness or medical condition prevents Defendant from attending the trial, he must provide a letter from his healthcare provider documenting that he is suffering from an illness or medical condition that prevents him from attending the trial in this matter. Failure to notify the Court of any known illness or medical condition that prevents Defendant from appearing for trial as scheduled at least three working days prior to trial may result in sanctions, including the costs of impaneling a jury, being imposed.

Dated this 11th day of July, 2006.



MARTHA VAZQUEZ
U. S. DISTRICT COURT JUDGE